



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
BROOKFIELD PLACE, 200 VESEY STREET, SUITE 400
NEW YORK, NY 10281-1022

May 27, 2021

Application GRANTED. The initial pretrial conference currently scheduled for June 10, 2021 is ADJOURNED *sine die*. Plaintiff shall file a letter proposing next steps **within two weeks of an answer being filed or the deadline to do so passing**. Plaintiff shall file a copy of this Order on Defendant via FedEx and file proof of such service. The Clerk of Court is directed to terminate ECF No. 10. SO ORDERED.

May 27, 2021

VIA ECF

The Honorable Jesse M. Furman
United States District Judge
40 Centre Street
New York, NY 10007

Re: SEC v. Rafiq, 21-CV-2168 (JMF) (S.D.N.Y.)

Dear Judge Furman:

Plaintiff Securities and Exchange Commission ("SEC") respectfully requests an adjournment of: (1) the June 10, 2021 initial pretrial conference in this case; and (2) the June 3, 2021 deadline for the parties' pre-conference submissions. (DE 7.) Defendant Shamoon Omer Rafiq ("Rafiq") currently is incarcerated in Singapore. The SEC has successfully served its Complaint on Rafiq, and his response is due June 7, 2021. (DE 9.) However, due to Rafiq's incarceration and related logistics, the SEC has been unable to confer with Rafiq. The SEC therefore respectfully requests that the Court adjourn the current schedule, pending Rafiq's response to the SEC's Complaint (or lack thereof). This is the SEC's first request for an adjournment.

I. Background

The SEC filed this case on March 12, 2021, charging Rafiq with securities fraud for attempting to bilk investors out of millions of dollars by offering them ownership interests in a non-existent investment fund that, Rafiq falsely claimed, held pre-IPO stock of a well-known company. The same day, the United States Attorney's Office for the Southern District of New York announced the unsealing of its parallel criminal Complaint against Rafiq, *United States v. Rafiq*, 20 Mag. 9076 (S.D.N.Y.).¹

By Order dated March 15, 2021 ("March 15 Order") (DE 7), the Court in this case scheduled an initial pretrial conference for June 10, 2021, and directed the parties to confer and submit by June 3, 2021 a joint letter and proposed Civil Case Management Plan and Scheduling Order. The March 15 Order also directed the SEC to serve Rafiq with the March 15 Order and the Court's Individual Rules. On March 23, 2021, the SEC attempted to serve those documents on Rafiq by FedEx delivery to Rafiq's last known

¹ On May 17, 2004, Rafiq was convicted of a similar wire fraud scheme in *United States v. Rafiq*, 04-cr-448 (E.D.N.Y.).

residential address in Singapore.² As far as the SEC knows, Rafiq is not represented by counsel in this case.

In early April 2021, the SEC unsuccessfully attempted personal service of its Complaint on Rafiq at the same Singapore address, and also at an additional Singapore residential address formerly associated with Rafiq. On April 16, 2021, the SEC learned that Rafiq had been taken into custody by the Singapore authorities on charges unrelated to this case. At or about that same time, the SEC also contacted both Rafiq's U.S. and Singapore criminal defense counsel, both of whom stated that they are not authorized to accept service of the SEC Complaint. U.S. defense counsel has further informed the SEC that, since Rafiq's incarceration, he has been unable to communicate directly with Rafiq.

On May 17, 2021, the SEC successfully effectuated personal service on Rafiq at Singapore's Changi Prison. Rafiq's response to the Complaint is due by June 7, 2021. (DE 9.) To date, Rafiq remains incarcerated at Changi Prison.

On May 20, 2021, the SEC re-sent to Rafiq — by FedEx delivery to Changi Prison — the Court's March 15 order, Individual Rules, and a proposed Scheduling Order. FedEx confirmed delivery to the Singapore Prison Service on May 24. However, the SEC understands that the Singapore Prison Service takes an additional ten days to two weeks to process delivery of such letters to its inmates.

II. SEC Request for Adjournment

For the reasons set forth above — due to Rafiq's incarceration in Singapore and related logistics — the SEC has been unable to confer with Rafiq regarding a joint letter and proposed Scheduling Order. The SEC also does not know whether Rafiq is aware of, or plans to attend, the June 10 Court conference (or, as a practical matter, how he might attend under the circumstances). In the interest of minimizing such logistical issues, the SEC respectfully requests that the Court adjourn for now the June 10 conference and June 3 submissions deadline, pending Rafiq's response to the SEC's Complaint (or lack thereof). Rafiq's response is due by June 7, and the SEC thus should learn shortly whether Rafiq intends to contest the Complaint. The SEC respectfully proposes that it report back to the Court if and when Rafiq responds to the Complaint and, if necessary, request at that time that the Court reset the initial pretrial conference date and pre-conference submissions deadline.

Respectfully submitted,

/s/ Jack Kaufman

Jack Kaufman, Senior Trial Counsel

cc: Defendant Shamoan Omer Rafiq, via FedEx to Changi Prison, Singapore.

² FedEx confirmed delivery at that address on March 26, 2021. However, the SEC subsequently learned that that address may no longer be associated with Rafiq.